

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Global Expedited Package Services Contracts
Non-Published Rates

Docket No. MC2017-72

Competitive Product Prices
Global Expedited Package Services Contracts
Non-Published Rates 11 (MC2017-72)

Docket No. CP2017-99

ORDER CONCERNING THE ADDITION OF GLOBAL EXPEDITED PACKAGE
SERVICES—NON-PUBLISHED RATES CONTRACT 11 (GEPS—NPR 11) TO THE
COMPETITIVE PRODUCT LIST

(Issued January 11, 2017)

I. INTRODUCTION

The Postal Service requests that the Commission add Global Expedited Package Services—Non-Published Rates 11 (GEPS—NPR 11) to the competitive product list within the Mail Classification Schedule (MCS).¹ Request at 1. The Request includes a

¹ Request of the United States Postal Service to Add Global Expedited Package Services - Non-Published Rates 11 (GEPS – NPR 11) to the Competitive Products List and Notice of Filing GEPS – NPR 11 Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, December 27, 2016 (Request).

GEPS—NPR 11 revised model contract. *Id.* at 5; *id.* Attachment 4. For the reasons discussed below, the Commission approves the Request.

II. BACKGROUND

Initial Commission action. On December 28, 2016, the Commission issued a notice establishing the two dockets, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

GEPS—NPR product history. The GEPS—NPR grouping offers incentive pricing to small- and medium-sized businesses that satisfy prescribed capability requirements and make a contractual commitment to generate minimum levels of revenue through the use of Priority Mail Express International (PMEI), Priority Mail International (PMI), Global Express Guaranteed (GXG), and First-Class Package International Service (FCPIS) products. See Request at 6. The Postal Service states:

GEPS - NPR 1 and 2 offered incentive pricing to small and medium-sized business mailers that satisfy prescribed capability requirements and that are willing to enter a contractual commitment to minimum levels of revenue from use of Priority Mail Express International (PMEI) and Priority Mail International (PMI) products. GEPS - NPR 3 through 7 offered such incentive pricing for not only PMEI and PMI, but also GXG. GEPS - NPR 8, 9 and 10 offer such incentive pricing for not only GXG, PMEI, and PMI, but also First-Class Package International Service (FCPIS).

Id.

Under an approach developed in several orders, the Commission authorizes the Postal Service, following approval of a GEPS—NPR product, to enter into standard agreements and to file the executed agreements for review after execution, subject to

² See Docket No. CP2014-1, *et al.*, Notice Initiating Docket(s) For Recent Postal Service Negotiated Service Agreement Filings, December 28, 2016.

several conditions.³ The latter include filing requirements, such as notice of the fact that the Postal Service has entered into a GEPS—NPR contract, the effective date, the termination date, and quarterly results. See *generally* Order Nos. 630 and 1161, as revised by Order No. 1333.⁴

The GEPS—NPR 11 product. The Postal Service proposes to create GEPS—NPR 11, due to its revision of the Management Analysis of the Prices and Methodology for Determining Prices for Negotiated Service Agreements under Global Expedited Package Services—Non-Published Rates 11 (GEPS—NPR 11 Management Analysis), the accompanying financial model that revises the previously filed GEPS—NPR 10 Management Analysis, and the model contract for GEPS—NPR. Request at 6. The Request is also a result of the Postal Service’s planned price adjustments approved in Order No. 3622.⁵

³ See Docket No. CP2011-45, Order Adding Global Expedited Package Services—Non-Published Rates 2 to the Competitive Product List, December 30, 2010 (Order No. 630); Docket Nos. MC2012-4 and CP2012-8, Order Approving Postal Service Request to Add Global Expedited Package Services—Non-Published Rates 3 (GEPS—NPR 3) to Competitive Product List, January 20, 2012 (Order No. 1161); Docket Nos. MC2013-27 and CP2013-35, Order No. 1625, Order Adding Global Expedited Package Services—Non-Published Rates 4 (GEPS—NPR 4) to the Competitive Product List, January 16, 2013; Docket Nos. MC2015-23 and CP2015-29, Order No. 2320, Order Adding Global Expedited Package Services—Non-Published Rates Contract 5 (GEPS—NPR 5) to the Competitive Product List, January 13, 2015; Docket Nos. MC2015-23 and CP2015-65, Order No. 2513, Order Approving Changes in Prices and Model Contract and Adding Redesignated Global Expedited Package Services—Non-Published Rates 6 to the Competitive Product List, May 27, 2015; Docket Nos. MC2015-55 and CP2015-83, Order No. 2558, Order Adding Global Expedited Package Services—Non-Published Rates 7 to the Competitive Product List, July 1, 2015; Docket Nos. MC2016-5 and CP2016-5, Order No. 2774, Order Adding Global Expedited Package Services—Non-Published Rates Contract 8 to the Competitive Product List, October 23, 2015; Docket Nos. MC2016-46 and CP2016-61, Order No. 2967, Order Adding Global Expedited Package Services—Non-Published Rates Contract 9 (GEPS—NPR 9) to the Competitive Product List, December 30, 2015; Docket Nos. MC2016-97 and CP2016-122, Order Concerning the Addition of Global Expedited Package Services—Non-Published Rates Contract 10 (GEPS—NPR 10) to the Competitive Product List, March 29, 2016 (Order No. 3189); see *also* Request, Attachment 2C at 7.

⁴ Docket Nos. MC2012-4 and CP2012-8, Order on Motion for Partial Reconsideration, May 4, 2012 (Order No. 1333).

⁵ Request at 6; see Docket No. CP2017-20, Order Approving Price Adjustments for Competitive Products, November 18, 2016 (Order No. 3622).

III. THE POSTAL SERVICE'S POSITION

The Postal Service asserts that the GEPS—NPR 11 model contract under consideration is similar to the GEPS—NPR 10 model contract reviewed in Order No. 3189. *Id.* The Postal Service identifies the major differences between the two products to be in the Management Analysis, the financial model, and the rates, which are based upon new prices approved by the Commission in 2016.⁶ The Postal Service also mentions other less-substantive changes to the model agreement that are mainly administrative in nature.⁷

The Postal Service asserts that the changes in the contract do not affect the market characteristics of the GEPS—NPR product, which it claims “continues to be designed for small- and medium-sized business mailers wishing to use international expedited delivery services for their correspondence and order fulfillment.” *Id.*

With respect to new rates, the Postal Service asserts that changes are authorized by Governors’ Decision No. 11-6, which states that for Outbound International Competitive Agreements, such as GEPS—NPR 11 and all successor groupings under the GEPS—NPR 11 product, “management is hereby authorized to prepare any necessary product description, including text for inclusion in the Mail Classification Schedule, and to present such product description to the Postal Regulatory Commission.”⁸

Section 3633(a). The Postal Service includes a Statement of Supporting Justification to support a finding that the GEPS—NPR 11 product’s cost coverage will

⁶ *Id.* at 6-7; see Docket No. CP2017-20, Order No. 3622.

⁷ These other changes include minor revisions to Articles 4, 8, 13, and 19; an additional paragraph in Article 6 regarding items destined for Cuba; the deletion of references in Articles 36 and 46 to annexes which no longer form part of the model contract; and the deletion of two paragraphs from Article 11 concerning a shortfall to be paid by mailers failing to meet the contract’s annualized minimum commitment. Request at 7. The Commission notes that to the extent failure to meet any minimum volume commitments impacts cost coverage, the Commission will review each GEPS—NPR 11 agreement individually as part of its Annual Compliance Determination.

⁸ *Id.* at 7-8; see *id.* Attachment 2A at 1-2.

ensure that cross-subsidization of this product by market dominant products should not occur and demonstrates that the product should make an ample contribution to institutional costs, in addition to covering its attributable costs. Request, Attachment 3.

Filing and reporting practices. The Postal Service states that it will provide a copy of each GEPS—NPR 11 customer agreement to the Commission, along with the financial cost inputs used to generate the rates for the customer, and the effective date of each GEPS—NPR 11 agreement. Request, Attachment 2C at 7. Each GEPS—NPR 11 contract will bear a serial number, and subsequent information filed with the Commission concerning a specific contract will be filed with reference to the applicable docket and serial number. *Id.* The Postal Service further states that all contracts using the GEPS—NPR 11 model customer contract and the rates in the Management Analysis will be filed in a single docket and will be reported as a single competitive product in the appropriate Annual Compliance Report (ACR). *Id.*

IV. COMMENTS

Comments were filed by the Public Representative on January 9, 2017.⁹ No other comments were received.

The Public Representative states that the GEPS—NPR 11 product should be added to the competitive product list, as the discounted prices developed from the financial model appear to generate sufficient revenue to cover costs and thereby satisfy 39 U.S.C. § 3633. PR Comments at 2.

V. COMMISSION ANALYSIS

The Postal Service's Request presents two main issues: (1) whether GEPS—NPR 11 should be added to the competitive product list; and (2) whether the rates

⁹ Public Representative Comments on Postal Service Request to Add Global Expedited Package Services—Non-Published Rates Contract 11 to the Competitive Product List, January 9, 2017 (PR Comments).

generated by the revised methodology presented in the accompanying financial model satisfy 39 U.S.C. § 3633(a) and 39 C.F.R. part 3015. Based on a review of the Request and the supporting documentation, the Commission approves the Postal Service's request to add GEPS—NPR 11 to the MCS and adds it to the competitive product list.

Inclusion within the competitive product list. The applicable criteria, under 39 U.S.C. § 3642(b), are whether the proposed product qualifies as market dominant or competitive; is excluded from the postal monopoly; and reflects several additional considerations related to the impact on private enterprises engaged in delivery of the product, the views of those who use the product, and the likely impact on small business concerns.

The instant filing revises several aspects of GEPS—NPR 10 which, in Order No. 3189, was classified as a competitive product. In addition to the new Management Analysis and rates, the Postal Service made administrative revisions to the original contract. Request at 7. The Commission finds these administrative revisions concern routine updates or clarification of matters associated with contract administration, and do not require reconsideration of the Commission's previous determination concerning product classification. See Docket No. CP2011-45, Order No. 630.

Cost considerations. The revised management analysis and financial model presented by the Postal Service in support of the GEPS—NPR 11 product indicates that rates are sufficient to cover attributable costs, and that the product is not being cross-subsidized by market dominant products and should make a positive contribution to institutional costs. Thus, based on a review of the Request, supporting data, and comments, the Commission finds that the rates for GEPS—NPR 11 contracts should cover their attributable costs (39 U.S.C. § 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. § 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. § 3633(a)(3)).

Conclusion. The Commission approves the inclusion of GEPS—NPR 11 (MC2017-72 and CP2017-99) within the GEPS—NPR product grouping in the MCS and as a new product on the competitive product list.

In connection with the new product, the Postal Service, consistent with Order No. 3189, will provide a copy of each GEPS—NPR 11 customer agreement to the Commission, along with the financial cost inputs used to generate the rates for the customer, and the effective date of each GEPS—NPR 11 agreement. See Request, Attachment 2C at 7. Each GEPS—NPR 11 customer agreement must be filed with the Commission within a reasonable time, e.g. 10 days of its effective date (including modified or renewed contracts).¹⁰

All contracts using the GEPS—NPR 11 model customer contract and the rates in the Management Analysis will be filed in a single docket and will be reported as a single competitive product in the appropriate ACR. *Id.* In addition, each GEPS—NPR 11 contract will bear a serial number and subsequent information filed with the Commission concerning a specific contract will be filed with reference to the docket and serial number. *Id.*

Non-Published Rates products such as the GEPS—NPR 11 give the Postal Service flexibility to enter into agreements that meet set conditions without seeking prior approval from the Commission. In light of the additional flexibility afforded to the Postal Service with these types of agreements, these associated reporting requirements are a critical part of the regulatory regime. The Commission cautions the Postal Service that failure to timely file individual contracts could result in the cancellation of such contracts by the Commission.¹¹

¹⁰ See Docket Nos. MC2011-15 and CP2011-51, Order No. 661, Order Approving Addition of Priority Mail—Non-Published Rates 1 to the Competitive Product List, February 3, 2011, at 8.

¹¹ See Docket No. CP2011-51, Order No. 3714, Order Requiring Additional Information, December 29, 2016, at 4.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the proposed model contract filed in these dockets.
2. The Commission adds Global Expedited Package Services—Non-Published Rates Contract 11 (MC2017-72 and CP2017-99) to the competitive product list within the product grouping for GEPS—NPR in the Mail Classification Schedule. Revisions to the competitive product list and the Mail Classification Schedule appear below the signature of this Order and are effective immediately.
3. Changes in rates due to changes to the GEPS—NPR 11 model contract and/or changes to the financial model must be approved in advance by the Commission pursuant to 39 C.F.R. part 3015.
4. A copy of each contract, along with the financial model inputs used to generate rates for each contract, must be filed with the Commission within a reasonable time, *e.g.*, within 10 days of the effective date of the contract.
5. The Postal Service shall notify the Commission of the effective date of each contract. If any contract terminates earlier than scheduled, the Postal Service shall inform the Commission prior to the new termination date.
6. The Postal Service shall file, within 30 days of the end of each fiscal quarter, costs, volumes, and revenues disaggregated by weight and country group associated with each contract that expires during that quarter, including any penalties paid.

7. The Secretary shall arrange for the publication in the *Federal Register* of an updated product list reflecting the change made in the body of this Order.

By the Commission.

Stacy L. Ruble
Secretary

CHANGES TO THE PRODUCT LIST

The following material represents changes to the product list codified in Appendix B to 39 C.F.R. part 3020, subpart A—Competitive Product List. These changes reflect the Commission’s order in Docket Nos. MC2017-72 and CP2017-99. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Appendix B to Subpart A of Part 3020—Competitive Product List

Negotiated Service Agreements*

Outbound International*

Global Expedited Package Services (GEPS)—Non-Published Rates

Global Expedited Package Services (GEPS)—Non-Published Rates 11

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products **2000 Competitive Product List**

Negotiated Service Agreements*

Outbound International*

Global Expedited Package Services (GEPS)—Non-Published Rates

2500

Negotiated Service Agreements

2510

Outbound International

2510.8

Global Expedited Package Services (GEPS)—Non-Published Rates

2510.8.7

Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Expedited Package Services (GEPS)—Non-Published Rates 11
Baseline Reference
Docket Nos. MC2017-72 and CP2017-99
PRC Order No. 3746, January 11, 2017
Included Agreements
